

Date of decision: 2-2-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S. K. KESHOTE, J  
(2-2-1996)

C.A.V JUDGMENT:

None present for the parties.

Though the matter could have been dismissed for default, as I have read the matter at my residence, I

propose to decide the same on merits in the interest of justice. Otherwise also it is a matter of the year 1982.

2. The petitioner filed this writ petition praying that respondent No.1 be directed to calculate the amount of gratuity payable to him by taking into consideration his qualifying service from 1955 till January 1980. To appreciate this controversy the necessary facts are given in brief. Respondent No.1 is a Society registered under the Societies Registration Act, and it is running different educational institutions. The petitioner was appointed as Principal of A.G.High School, an institution run by respondent No.1 Society, on 15-5-1964. The Society has another institution known as A.G.Teachers' College. The petitioner retired from the post of Principal of A.G. High School on 16-11-1977 after reaching the age of superannuation. Fresh appointment was given to the petitioner on the post of Principal in A.G.Teachers' College on 1-6-1978 and the petitioner continued to work under the fresh appointment till January 1988.

3. It is not in dispute that whatsoever gratuity payable to the petitioner for the service rendered on the post of Principal A.G. High School has been calculated and paid to him. The fact as given out from the record is that the service rendered by the petitioner on the post of Principal, A.G. High School could not have been counted for the purpose of gratuity payable to him for rendering service as Principal, A.G.Teachers' College. It is true that prior to 15th May, 1964 the day on which the petitioner was appointed as Principal of A.G. High School, he was in the service of A.G.Teachers' College, but on his appointment, which he voluntarily accepted, on the post of Principal, A.G. High School his services at A.G.Teachers' College came to an end. The petitioner has tried to make out a case in the writ petition that he .R

Principal of A.G. High School, but in support of that case the petitioner has not produced any material whatsoever.

4. The only material which has been produced by the petitioner is petitioner's own letter dated 18th May, 1964 addressed to the Secretary of the Society, which read as under:

" I am in receipt of your letter No.128 of 1964-65 regarding my appointment as the Principal of the A.G. High School. Thank you for the same. I very gladly accept it. "

It is clear from the said letter that the petitioner himself has taken it to be a case of appointment on the post of

Principal, A.G.High School. Possibly, though the petitioner has not given out all the facts, the post of Principal of A.G. High School would have carried higher pay-scale at the relevant time and atleast that much can be expected that it was a post higher in status than being a teacher at the Teachers' College. The petitioner himself had accepted this appointment. No material whatsoever has been produced by the petitioner to show that it was on deputation and not an appointment. Even the petitioner has not produced any document to show and establish that he has been given the benefit of the service which he rendered as teacher at the A.G. Teachers' College.

5. The matter does not rest here. The petitioner was appointed as Principal of the A.G.High School in the year 1964 and he retired from the service in the year 1978. For all these 14 years the petitioner has not made any complaint in respect of his earlier service, prior to the filing of this petition in the year 1982.

6. Taking the matter from any angle, I do not find any substance whatsoever in the writ petition. Hence the petition is dismissed. Rule discharged.